

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 331

Introduced by Assembly Member Hall

February 18, 2009

An act to ~~amend Section 2924.8 of~~ add Section 1940.95 to the Civil Code, relating to ~~mortgages~~ real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 331, as amended, Hall. ~~Mortgages and deeds of trust: foreclosure.~~
Hiring of real property.

Existing law contains various provisions regulating the hiring of real property, as specified.

This bill would require the landlord, at the time of the execution of the rental agreement of a single-family dwelling unit, to disclose in writing if the property is subject to any outstanding notice of default, pending suit to foreclose a mortgage, pending declaration of forfeiture, or any pending proceeding to foreclose a tax lien, as specified. This bill would allow the tenant to recover twice the actual damages or twice the monthly rent, whichever is greater, and all prepaid rent, if the tenancy terminates, as provided. This bill would also provide that a property manager shall not be liable under these provisions if he or she had no knowledge, as provided.

The provisions of this bill would not apply to premises managed by a court appointed receiver.

~~Existing law requires that, upon a breach of the obligation of a mortgage or transfer of an interest in property, the trustee, mortgagee, or beneficiary record a notice of default in the office of the county recorder where the mortgaged or trust property is situated and mail the~~

notice of default to the mortgagor or trustor. Existing law, until January 1, 2013, requires a specified notice to be posted on a residential property to be sold if the billing address for the mortgage note is different than the property address.

This bill would make a nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1940.95 is added to the Civil Code, to
2 read:

3 1940.95. (a) If at the time of the execution of a rental
4 agreement of a single-family dwelling unit the premises are subject
5 to any of the following circumstances, the landlord shall disclose
6 that circumstance to the tenant in writing before the execution of
7 the rental agreement:

8 (1) Any outstanding notice of default under a trust deed,
9 mortgage, or contract of sale, or notice of trustee's sale under a
10 trust deed.

11 (2) Any pending suit to foreclose a mortgage, trust deed, or
12 vendor's lien under a contract of sale.

13 (3) Any pending declaration of forfeiture or suit for specific
14 performance of a contract of sale.

15 (4) Any pending proceeding to foreclose a tax lien.

16 (b) If the tenancy terminates as a result of a circumstance that
17 the landlord failed to disclose as required by subdivision (a), the
18 tenant may recover twice the actual damages or twice the monthly
19 rent, whichever is greater, and all prepaid rent, in addition to any
20 other remedy that the law may provide.

21 (c) This section shall not apply to premises managed by a court
22 appointed receiver.

23 (d) A property manager shall not be liable for damages under
24 this section if the property manager had no knowledge of the
25 circumstances that gave rise to a duty to disclose under subdivision
26 (a).

27 ~~SECTION 1. Section 2924.8 of the Civil Code is amended to~~
28 ~~read:~~

29 ~~2924.8. (a) Upon posting the notice of sale pursuant to Section~~
30 ~~2924f, a trustee or authorized agent shall also post the following~~

1 notice, in the manner required for posting the notice of sale on the
2 property to be sold, and a mortgagee, trustee, beneficiary, or
3 authorized agent shall mail, at the same time in an envelope
4 addressed to the "Resident of property subject to foreclosure sale"
5 the following notice in English and the languages described in
6 Section 1632: "Foreclosure process has begun on this property,
7 which may affect your right to continue to live in this property.
8 Twenty days or more after the date of this notice, this property
9 may be sold at foreclosure. If you are renting this property, the
10 new property owner may either give you a new lease or rental
11 agreement or provide you with a 60-day eviction notice. However,
12 other laws may prohibit an eviction in this circumstance or provide
13 you with a longer notice before eviction. You may wish to contact
14 a lawyer or your local legal aid or housing counseling agency to
15 discuss any rights you may have."

16 (b) It shall be an infraction to tear down the notice described in
17 subdivision (a) within 72 hours of posting. Violators shall be
18 subject to a fine of one hundred dollars (\$100).

19 (c) A state government entity shall make available translations
20 of the notice described in subdivision (a) which may be used by a
21 mortgagee, trustee, beneficiary, or authorized agent to satisfy the
22 requirements of this section.

23 (d) This section shall only apply to loans secured by residential
24 real property, and if the billing address for the mortgage note is
25 different than the property address.

26 (e) This section shall remain in effect only until January 1, 2013,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2013, deletes or extends that date.